

6.5 Sick Leave Sharing

ELIGIBILITY

- Both recipients and donors must meet the definition of “employee” in KRS 18A.196.
- A donor may not donate an amount of sick leave which would cause his/her sick leave balance to go below 75 hours.
- An employee becomes eligible to receive donated sick leave at the point in time when all four of the criteria below are met:
 1. The employee or member of his/her immediate family suffers from a “medically certified” illness, injury, impairment, or physical or mental condition which has caused, or is likely to cause, the employee to go on leave for at least ten consecutive working days;
 2. The employee’s need for absence is certified by a licensed practicing physician;
 3. The employee has exhausted all of his/her available paid leave; and
 4. The employee has complied with administrative regulations governing the use of sick leave.

Some important notes:

It is important to remember that participation in the Sick Leave Sharing Program is at the discretion of the employee and requires approval of the appointing authority and the Secretary of the Personnel Cabinet.

When working with any facet of the Sick Leave Sharing Program you must consider both the statute and the regulations.

Keep in mind that participation in the Sick Leave Sharing Program is subject to the approval of the appointing authority and the Secretary of the Personnel Cabinet.

Guidelines on Sick Leave Sharing Regulations

KRS 18A.197 and KAR 2:105 provide that in the event of a prolonged or catastrophic illness or injury, or an extended absence due to illness of a family member, eligible employees who accrue sick leave and who have exhausted their leave balances may have sick leave donated to them by other eligible state employees. The forms needed to receive or donate leave may be obtained from Personnel Administrators.

Listed below is the chronological flow of actions and documents.

1. **RECIPIENT COMPLETES APPLICATION AND SUBMITS IT ALONG WITH THE PHYSICIAN'S CERTIFICATION TO HIS PAYROLL OFFICER.** The payroll officer collects all information, and transmits the appropriate documents to the appointing authority.
2. **THE APPLICATION IS REVIEWED TO ENSURE THAT THE CERTIFICATION OF THE PHYSICIAN IS COMPLETE AND THE FORM IS CORRECTLY FILLED OUT.** Verify that the employee will exhaust his leave during the projected absence. Note that the employee does not have to have exhausted his leave before he submits the application. Also, note that the employee does not have to have already been off for 10 days in order to apply, but must have a situation where it is likely to cause an absence for at least 10 consecutive days. A file is created for the recipient by the payroll officer. All medical information must be kept in a locked file separate from the personnel files. A copy of the application is then sent to the Personnel Cabinet.
3. **DONOR(S) COMPLETES DONATION FORM AND SUBMITS TO HIS PAYROLL OFFICER.** The donor's payroll officer verifies the donor's leave balance for eligibility. After the form is signed by the appointing authority, a copy is sent to the recipient's payroll officer. The donor's payroll officer will hold the copy for the Personnel Cabinet until receiving the "Memo Concerning Donated Sick Leave" (a copy is attached) from the recipient's payroll officer. This shall serve as confirmation that the leave has been transferred. The donor's payroll officer must reduce the donor's sick leave balance in UPPS upon receipt of the memo from the recipient's payroll officer.
4. **RECEIVE AND FILE FORMS.** As the donation forms are received by the recipient's payroll officer, they are stamped with a received date, and the time of receipt is recorded on the form. The recipient's payroll officer will file the donor forms in the file for the appropriate recipient.
5. **PREPARE AND PROCESS PAYROLLS.** Upon certification of eligibility, all donated leave is to be added to recipient's sick leave balance in UPPS at the time the donation is received. As the employee utilizes leave for the Sick Leave Sharing qualifying condition he will be paid as usual, reporting sick leave used.
6. **SEQUENCE OF LEAVE USAGE.** Transfer all leave donated to the recipient at the time of donation, not on a pay period basis, up to the amount requested. As the recipient accrues leave of his own, his leave time must be used first. He can then use time donated to him. The recipient uses donated leave in the order in which it is received.

7. **RECIPIENT CAN RETAIN LEAVE AFTER RETURN TO WORK.** The recipient may retain the donated leave upon return to work only if the recipient documents that leave will be needed for continuing treatment relating to the condition which caused the individual's absence. For example, if the employee was absent due to surgery to remove a malignant tumor and returns to work, but will require periodic absences for radiation therapy, the excess leave may be retained for that purpose. However, the employee may not retain the excess leave to be used for any unrelated condition.
8. **SEQUENCE OF RESTORING UNUSED LEAVE TO DONORS.** When the recipient returns to work and the donated leave is no longer needed for the qualifying condition, excess leave shall be returned to donors in reverse order of donation (last donor's leave is returned first.) If the donor has left state employment, the returned hours should be credited to the inactive record for restoration if the employee was rehired.

MEMORANDUM

TO:

FROM:

SUBJECT: Memo Concerning Donated Sick Leave / Return of Unused Donated Sick Leave

DATE:

Sick Leave Donation

This is to certify that _____ hours of sick leave donated by _____,
(name)

_____, _____,
(ss#) (company #)

were transferred to _____, _____,
(name) (ss#)

_____.
(company #)

Please reduce the donor's sick leave balance accordingly.

Return of Unused Donated Sick Leave

This is to certify that _____ hours of sick leave donated by _____,
(name)

_____, _____,
(ss#) (company #)

were unused by _____, _____,
(name) (ss#)

_____.
(company #)

Please credit the employee sick leave balance accordingly.

Recipient's Payroll Officer's Name: _____

Payroll Officer's Phone #: _____

APPLICATION FOR SICK LEAVE SHARING

☐ ORIGINAL REQUEST
☐ AMENDED REQUEST

Name of Recipient:

Department: _____

Social Security Number:

Amount of Sick Leave Needed:

Please provide a reason transferred leave is needed, including a brief description of the nature, severity, and anticipated duration of the medical emergency. (If this is an amended request, provide reason for extension.)

Please attach certification by one or more physicians of the medical reason that employee will be unable to perform the duties and responsibilities of his/her position for ten (10) or more consecutive working days or the reason for extension, if an amended request.

| | |
|--|------|
| Signature of Recipient or Representative | Date |
|--|------|

Signature of Supervisor
Date Received

The above named employee has been approved to receive donated sick leave in accordance with the provisions of KRS 18A.197.

Signature of Appointing Authority

Date

The Recipient's Appointing Authority must forward one copy of this form (without attached medical statement) to the Personnel Cabinet, Processing & Records Branch, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601.

SICK LEAVE DONATION FORM

Name of Donor: _____

Department: _____

Social Security Number: _____

Amount of Donation to be credited to Recipient: _____

(Employee must have 75 hours remaining after donation. Minimum amount employee may donate is 7.5 hours.)

Name of Recipient: _____

Department: _____

Social Security Number: _____

I hereby certify that this donation is given without expectation or promise for any purpose other than that authorized by KRS 18A.197.

Signature of Donor

Date

This is to certify that the employee named above has a sufficient sick leave balance to donate the hours indicated under the provisions of KRS 18A.197.

Signature of Appointing Authority

Date

The Donor's Payroll Officer must forward one copy of this form to the Recipient's Payroll Officer and one copy to the Personnel Cabinet, Processing & Records Branch, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601.

TO BE COMPLETED BY DONOR'S PAYROLL OFFICER UPON RECEIPT

Company Number: _____

Department Name: _____

Date _____

PAYROLL OFFICER

TO BE COMPLETED BY RECIPIENT'S PAYROLL OFFICER

Recipient's current sick leave balance: _____ + _____ donation = _____ **Recipient's New Sick Leave Balance**

Company Number: _____

Department Name: _____

Date _____

PAYROLL OFFICER

Sick Leave Sharing Questions and Answers

Following are some of the most frequently asked questions and their answers.

1Q. Does the donor have to be an active employee?

A. Yes.

2Q. Can an employee on P-1 leave participate in the program?

A. Once an employee has been placed by P-1 on leave without pay that employee is no longer eligible to participate in the sick leave sharing program. The employee is no longer entitled to accrue sick leave so he does not meet the requirements in the statute.

3Q. Will the recipient accrue leave of his own while on donated sick leave?

A. Yes, however, the recipient's leave must be used first before a donor's time can be used.

4Q. Will the recipient have to reapply when he accrues leave?

A. No, the original application will remain in effect.

5Q. When do the applications get sent to the Personnel Cabinet?

A. The Application for Sick Leave Sharing and the Sick Leave Donation Form(s) are to be sent to the Personnel Cabinet upon approval by the respective agencies.

6Q. Are the recipient and the donation forms on one piece of paper?

A. No, they are separate forms.

7Q. How do payroll officers know where to send the appropriate forms?

A. A list of payroll officers and the departments they handle is available from the Personnel Cabinet.

8Q. If the application is received after regular payroll, can the payment for donated leave be processed on the system supplemental?

A. Yes.

9Q. When and how is donated leave credited to the recipient?

A. All donated leave should be added to the recipient's sick leave balance at the time of donation. The amount credited may not exceed the amount requested. Crediting of leave on a pay period by pay period basis is not authorized in the statute.

10Q. Who is responsible for monitoring the sick leave balance of the recipient?

A. An employee who is receiving donated sick leave is responsible for keeping track of leave balances and for all paperwork associated with the sick leave sharing program. It is not the responsibility of the personnel/payroll officer to notify donors or recipients of remaining leave balances.

11Q. When there are multiple donors, how do you know whose leave to use first?

A. The donor whose form is received first should have his leave used first.

12Q. Is an employee who can only work a fraction of the day due to a medical condition eligible to have leave donated?

- A. No, the doctor must certify that the employee cannot perform his work duties for a minimum of 10 working days. This means all day, not a portion of the work day. However, once an employee has qualified for sick leave sharing for a specific condition that employee is eligible to use donated leave intermittently for follow-up care and recurrence of the same condition (see 19.)

13Q. Is an employee who is on workers' compensation eligible for participation in this program?

- A. Employees drawing workers comp are eligible for sick leave sharing. This does not change the fact that the employee is not to receive full pay and workers comp. The donated sick leave would be used to make up the difference between the workers comp payment and the employee's normal pay. Sick leave, from whatever origin, could be restored by the employee signing over the workers comp check, per normal procedures.

14Q. Are all recipients of donated sick leave automatically eligible for state-paid health insurance?

- A. No. Keep in mind that the leave regulations (101 KAR 2:102 and 101 KAR 3:015) apply to employees participating in the sick leave sharing program, the same as any other employee. It is the responsibility of the payroll officer to ensure that only eligible employees are covered by the state share of health insurance. This may require stopping health insurance deductions in situations where the recipient does not meet the requirements.

15Q. Is the donation revocable?

- A. No. Once the donor's application is accepted, the donation cannot be withdrawn, unless the donor becomes ineligible.

16Q. Are LRC and AOC participating agencies?

- A. Yes, both organizations can donate to or accept leave from Executive Branch employees.

17Q. Are sworn personnel in State Police covered by KRS Chapter 16, participating in the sick leave sharing?

- A. Yes, they have elected to do so.

18Q. Does maternity leave qualify under this regulation?

- A. Yes, with medical certification.

19Q. Can the recipient continue to use donated leave upon return to work?

- A. Upon returning to work an employee may continue to use donated leave for follow-up treatments for the condition which made him/her eligible. For example: An employee who has cancer and requires follow-up treatment may continue to use donated leave to cover these absences. An employee who has received donated leave for pregnancy may continue to use this leave for any checkups and follow-up treatment relating to the pregnancy. However, this leave may not be used for the baby's checkups. Health issues with the baby necessitating extended absences would require a new application for sick leave donation and would require that the employee meet all qualifying criteria in relation to the baby's illness.